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C O N F I D E N T I A L SECTION 01 OF 03 CAIRO 000749

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NSC STAFF FOR WATERS

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TAGS: PGOV PHUM KDEM EG

SUBJECT: NEA DAS CARPENTER DISCUSSES CONSTITUTIONAL AMENDMENTS WITH GOE AND NDP OFFICIALS

Classified by DCM Stuart Jones for reasons 1.4. (b) and (d).

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Summary  
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¶1. (C) In meetings on the Egyptian constitutional amendments with NEA DAS Scott Carpenter during a March 9-11 visit, GOE and NDP officials asserted that the process, however imperfect, was nevertheless a genuine reform process that will pave the way for new legislation which has the potential to enhance and expand the democratic space in Egypt. GOE and party officials also acknowledged that they need to do a better job of "selling" the amendments to the Egyptian people, but they also noted that they are hampered by widespread political apathy that characterizes the Egyptian public. End summary.

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Parliamentary and Legal Affairs Minister: Elections Supervision and Anti-terror Provisions are Key  
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¶2. (C) In a March 10 meeting with DAS Carpenter and the Ambassador, Minister for Parliamentary and Legal Affairs, Mufid Shehab, reviewed the constitutional amendment process, and said that two issues--anti-terror legislation and electoral supervision--had been particularly contentious. Shehab, who was joined by NDP Parliamentary bloc leader Abdul Ahad Gamal El-Din, acknowledged that the proposed amendment to article 179 of the constitution would allow the GOE to suspend the privacy protections currently enshrined in articles 41, 44, 45, which prohibit warrantless searches and wiretaps, in narrowly-defined terrorism cases. Shehab argued however, that opposition claims that this amendment would "constitutionalize" the Emergency Law, which has been applied almost continuously since 1967, were overstated.

¶3. (C) Shehab insisted that the amendment to article 179 was designed only to permit the GOE to pass a tightly-focused anti-terror law. Accordingly to Shehab, the draft anti-terror law--which has not yet been made public--will use a precise, narrow definition of terrorism. The privacy protections enshrined under articles 41, 44, and 45--which the GOE is currently able to disregard at will under the Emergency Law--will in fact be strengthened, said Shehab, since they will only be applied in carefully defined cases of terrorism. Shehab said he and GOE colleagues drafting the anti-terror law had carefully reviewed the U.S. Patriot Act, as well as the analogous British, Russian, and Spanish laws, and that their goal was to replace the indiscriminate and vaguely worded provisions of the Emergency Law with new legislation that will be "mid-way" between the regular penal code and the Emergency Law. Carpenter urged Shehab to make the draft anti-terror law public as soon as possible, in

order to reassure those who were worried that it would provide undue limitations on political freedoms. Shehab was non-committal, but acknowledged that the text of the new legislation, as well as its application/enforcement would be the key determinants of its success or failure.

¶4. (C) Turning to the matter of elections supervision, Shehab and Gamal El-Din argued that the current constitutional requirement that Egypt's judges (who number approximately 8,000) supervise all national elections was "practically impossible, and not a good use of judges' skills and prestige." During the 2005 parliamentary polls, Shehab said, there had been 32,000 polling stations requiring judicial supervision, which compelled the GOE to conduct voting in three stages over a month-long period. Shehab and Gamal El-Din said that the GOE had determined that an independent election commission, composed largely of judges or retired judges along with other neutral eminent personages, designed "along the Indian model," offered Egypt the best way to ensure efficient elections that would also be free and fair. Shehab noted that the amendment to article 88 would merely lay the constitutional groundwork for a new law on elections supervision, and he agreed with Carpenter that the actual text of the new law, plus its application, would be the real measure of success.

¶5. (C) Carpenter asked Shehab and Gamal El-Din for their views on how the GOE and the NDP would be gauging the success of the constitutional amendment process. Specifically, Carpenter asked if they were aiming for a particular turnout or "yes" vote in the national referendum. Shehab declined to answer, while Gamal El-Din answered with a non-sequiter about President Mubarak's prerogative to amend the constitution. In an acknowledgement that the GOE and NDP feel the need to

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respond to popular demands for change, Shehab said that the Egyptian people "are asking for more and more, and we live in an era where they are always comparing us with other states."

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NDP Policies Spokesman Mohamed Kamal on Elections Law  
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¶6. In a separate March 10 meeting with DAS Carpenter and the DCM, NDP Policies Committee spokesman Mohamed Kamal provided additional details on the matter of elections supervision. He said that he had personally studied the "Indian, Palestinian, Iraqi, and various Eastern European commissions," and the goal is to design a three-tiered commission that will have true neutrality and independence. Kamal said that the Parliament's "first order of business" after the national referendum (on/about April 4) will be to pass a revised law on the "exercise of political rights" so that the upcoming Shura Council elections, which Kamal said will occur in May or June, could be held under the authority of the new election commission. Kamal conceded that the new commission "would not have all of its powers and capabilities from Day One" and so would likely delegate temporary authority to the Ministry of Interior and local authorities so that these bodies administer the Shura elections under the supervision of the new commission.

¶7. (C) Kamal noted that although the amendments package would include provisions for the GOE to use party lists in future parliamentary elections, the upcoming Shura elections would be held under the existing, individual rules of candidacy--because of the pressing time requirements. Kamal noted that the proportion of party list candidates versus independents would be determined by future legislation, but that it was his assessment that the GOE would aim to have 70 percent of seats reserved for party candidates and 30 percent reserved for independents. Kamal said that the goal is to "ensure space for independents" but to allow the GOE and NDP to determine the relative balance in future legislation.

¶8. (C) Carpenter asked Kamal for clarification on the next steps in the amendment process. Kamal said that after approval by the Shura Council (which subsequently occurred on March 13), the amendments would move to the People's Assembly for an article-by-article review. The PA, said Kamal, would be able to propose revisions to the proposed amendments, and would vote on each amendment, which must be passed by a simple majority. At the conclusion of the PA review, the PA would vote on the package as a whole, and it must pass by a 2/3 majority. Kamal conceded that the constitutional reform process so far had generated very little public interest, and that this apathy could make it hard for the GOE and NDP to secure a genuine national endorsement in the upcoming referendum. Kamal said that the party would move quickly after the parliamentary approval (expected on March 20) to conduct civic education and get-out-the-vote campaigns, in order to boost turnout and support for the amendments.

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NDP Information Secretary Ali El-Din Hilal: A Weak Ruling Party is Embarked Upon Real Reform  
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¶9. (C) In a March 11 meeting with DAS Carpenter and poloffs, Ali El-Din Hilal, a former Minister of Youth, professor of political science at Cairo University, and current NDP Information Secretary, sought to put the Egyptian reform process in historical perspective. He noted that the reforms were profoundly different from, for example, what occurred in Easter Europe in the 1990s. "We have not had institutional breakdowns," Hilal asserted. "We are pursuing change from within." It was not an easy process, he argued, because of several factors:

--a prevailing climate of political apathy among Egyptian voters, which is linked to Egypt's authoritarian tradition ("not a police state, but a tradition of fear")

--the weakness of party politics in Egypt which means that elections are determined not by the appeal to voters of party platforms, but rather by patronage, family and clan connections, service provision, and money.

¶10. (C) Hilal said that the current amendment process was the culmination of a reform process that had begun in 2000 with President Mubarak's decision to appoint Hilal himself, Ahmed Ezz, Gamal Mubarak, and Zakariya Azmi to the NDP General Secretariat. Hilal said that he and the other new appointees quickly realized that the NDP was not a political

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party in the conventional sense, but rather "a coalition of personalities and interests, dominated by a provincial, conservative, rural elite." All of the NDP's political reform efforts since 2000, asserted Hilal, had been aimed at building a party with the strength and effectiveness to better address the needs of the Egyptian people. Now, in 2007, Hilal continued, the "proposed amendments, if actively and properly implemented, could have a significant impact on the Egyptian political system.

¶11. (C) Hilal acknowledged that the NDP needed to make a big push in the next few weeks to secure popular approval for the amendments. He noted that the party plans to mobilize its "7,500 units" at the local level to boost turnout. Hilal observed that an opposition attempt (including the Muslim Brotherhood) to mobilize a "no" vote would contribute to a significant turnout. Hilal opined that 30-35 percent turnout of eligible voters (who are estimated to be 32 million) would be "a great job." (Note: During the May 2005 referendum on the amendment to Article 76, the GOE reported turnout of slightly more than 50 percent of eligible voters, with an 83 percent "yes" vote. Independent observers asserted that the GOE's turnout data from May 2005 had been inflated. End note.)

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Comment  
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¶12. (C) Several points emerged clearly from DAS Carpenter's meetings on the amendments with GOE and NDP leaders. First, the GOE and the party do not appear to have devoted much effort so far to building popular approval for the amendments. The drafting and review process, which has been tightly controlled, has generated some controversy in the elite media and among the opposition, but the issue has not yet resonated with ordinary Egyptians. The party is making plans to build electoral support for the amendments, but it is not clear if this will make a significant difference in the few weeks that remain before the referendum in early April. In addition, all of Carpenter's GOE and NDP interlocutors noted that passage and popular approval of the amendments would be necessary, but also incomplete, steps towards the actual legislation that would lead to changes in key issues such as electoral supervision and the anti-terror law. End comment.

¶13. (U) DAS Carpenter has cleared this message.

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